

**U.S. District Court
Southern District of Florida (West Palm Beach)
CIVIL DOCKET FOR CASE #: 9:19-cv-80074-RLR**

UMB Bank, N.A. v. Sun Capital Partners V, L.P. et al
Assigned to: Judge Robin L. Rosenberg
Referred to: Magistrate Judge Bruce E. Reinhart
Cause: 28:1331 Federal Question

Date Filed: 01/17/2019
Date Terminated: 06/11/2019
Jury Demand: Plaintiff
Nature of Suit: 890 Other Statutory Actions
Jurisdiction: Federal Question

Plaintiff

UMB Bank, N.A.
*as Plan Trustee of The Limited Creditors'
Liquidating Trust*

represented by **Eric D. Madden**
Reid Collins & Tsai, LLP
Email: emadden@rctllegal.com
PRO HAC VICE
ATTORNEY TO BE NOTICED

Gregory S. Schwegmann
Reid Collins & Tsai, LLP
Email: gschwegmann@rctllegal.com
PRO HAC VICE
ATTORNEY TO BE NOTICED

Michael J. Yoder
Reid Collins & Tsai, LLP
Email: myoder@rctllegal.com
PRO HAC VICE
ATTORNEY TO BE NOTICED

Kenneth Dante Murena
Damian & Valori LLP
1000 Brickell Avenue
Suite 1020
Miami, FL 33131
(305) 371-3960
Fax: (305) 371-3965
Email: kmurena@dvllp.com
ATTORNEY TO BE NOTICED

V.

Defendant

Sun Capital Partners V, L.P.

represented by **Jodi Ann Avila**
Baker & McKenzie
Litigation
1111 Biscayne Blvd
Suite 1700
Miami, FL 33131
305.789.8982
Email: jodi.avila@bakermckenzie.com

LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Michael A. Duffy
Baker & McKenzie, LLP
300 East Randolph Street, Suite 5000
Chicago, IL 60601
Email: Michael.duffy@bakermckenzie.com
PRO HAC VICE
ATTORNEY TO BE NOTICED

Michael C. McCutcheon
Baker & McKenzie, LLP
300 East Randolph Street, Suite 5000
Chicago, IL 60601
Email: Michael.mccutcheon@bakermckenzie.com
PRO HAC VICE
ATTORNEY TO BE NOTICED

Defendant

Sun Mod Fashions IV, LLC

represented by **Jodi Ann Avila**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Michael A. Duffy
(See above for address)
PRO HAC VICE
ATTORNEY TO BE NOTICED

Michael C. McCutcheon
(See above for address)
PRO HAC VICE
ATTORNEY TO BE NOTICED

Defendant

Sun Mod Fashions V, LLC

represented by **Jodi Ann Avila**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Michael A. Duffy
(See above for address)
PRO HAC VICE
ATTORNEY TO BE NOTICED

Michael C. McCutcheon
(See above for address)
PRO HAC VICE
ATTORNEY TO BE NOTICED

Defendant

H.I.G. Sun Partners, LLC

represented by

Jodi Ann Avila

(See above for address)

*LEAD ATTORNEY**ATTORNEY TO BE NOTICED***Michael A. Duffy**

(See above for address)

*PRO HAC VICE**ATTORNEY TO BE NOTICED***Michael C. McCutcheon**

(See above for address)

*PRO HAC VICE**ATTORNEY TO BE NOTICED*

Date Filed	#	Docket Text
01/17/2019	<u>1</u>	COMPLAINT against All Defendants. Filing fees \$ 400.00 receipt number 113C-11323348, filed by UMB Bank, N.A., as Plan Trustee of The Limited Creditors' Liquidating Trust. (Attachments: # <u>1</u> Civil Cover Sheet, # <u>2</u> Exhibit A)(Murena, Kenneth) (Entered: 01/17/2019)
01/17/2019	<u>2</u>	Clerks Notice of Judge Assignment to Judge Robin L. Rosenberg and Magistrate Judge Bruce E. Reinhart. Pursuant to 28 USC 636(c), the parties are hereby notified that the U.S. Magistrate Judge Bruce E. Reinhart is available to handle any or all proceedings in this case. If agreed, parties should complete and file the Consent form found on our website. It is not necessary to file a document indicating lack of consent. (pcs) (Entered: 01/18/2019)
01/18/2019	<u>3</u>	Clerks Notice to Filer re: Electronic Case. Party(ies) Improperly Formatted. The Filer failed to enter the party name(s) in accordance with the CM/ECF Format for Adding Parties for Attorneys Guide. The correction was made. It is not necessary to re-file the document. (pcs) (Entered: 01/18/2019)
01/23/2019	<u>4</u>	Corporate Disclosure Statement by UMB Bank, N.A. (Murena, Kenneth) (Entered: 01/23/2019)
03/04/2019	<u>5</u>	ORDER SETTING STATUS CONFERENCE, CALENDAR CALL, AND TRIAL DATE, ORDER OF REQUIREMENTS, AND ORDER OF REFERENCE TO MAGISTRATE JUDGE: (Jury Trial set for 1/21/2020 09:00 AM in West Palm Beach Division before Judge Robin L. Rosenberg., Calendar Call set for 1/15/2020 09:00 AM before Judge Robin L. Rosenberg., Status Conference set for 12/18/2019 09:30 AM before Judge Robin L. Rosenberg.), Signed by Judge Robin L. Rosenberg on 3/4/2019. <i>See attached document for full details.</i> (drz) <u>Pattern Jury Instruction Builder</u> – To access the latest, up to date changes to the 11th Circuit Pattern Jury Instructions go to https://pji.ca11.uscourts.gov or click here . (Entered: 03/04/2019)
03/04/2019	<u>6</u>	MOTION to Appear Pro Hac Vice, Consent to Designation, and Request to Electronically Receive Notices of Electronic Filing for Eric D. Madden. Filing Fee \$ 75.00 Receipt # 113C-11443010 by UMB Bank, N.A.. Responses due by 3/18/2019 (Attachments: # <u>1</u> Text of Proposed Order)(Murena, Kenneth) (Entered: 03/04/2019)
03/04/2019	<u>7</u>	MOTION to Appear Pro Hac Vice, Consent to Designation, and Request to Electronically Receive Notices of Electronic Filing for Gregory S. Schwegmann. Filing Fee \$ 75.00 Receipt # 113C-11443051 by UMB Bank, N.A.. Responses due by 3/18/2019 (Attachments: # <u>1</u> Text of Proposed Order)(Murena, Kenneth) (Entered: 03/04/2019)

03/05/2019	<u>18</u>	CERTIFICATE OF SERVICE by UMB Bank, N.A. re <u>1</u> Complaint, (Attachments: # <u>1</u> Exhibit A)(Murena, Kenneth) (Entered: 03/05/2019)
03/06/2019	<u>19</u>	PAPERLESS ORDER granting <u>6</u> Motion to Appear Pro Hac Vice, Consent to Designation, and Request to Electronically Receive Notices of Electronic Filing for Attorney Eric D. Madden. Signed by Magistrate Judge Bruce E. Reinhart on 3/6/2019. (hk02) (Entered: 03/06/2019)
03/06/2019	<u>10</u>	PAPERLESS ORDER granting <u>7</u> Motion to Appear Pro Hac Vice, Consent to Designation, and Request to Electronically Receive Notices of Electronic Filing for Attorney Gregory S. Schwegmann. Signed by Magistrate Judge Bruce E. Reinhart on 3/6/2019. (hk02) (Entered: 03/06/2019)
03/12/2019	<u>11</u>	NOTICE of Attorney Appearance by Jodi Ann Avila on behalf of H.I.G. Sun Partners, LLC, Sun Capital Partners V, L.P., Sun Mod Fashions IV, LLC, Sun Mod Fashions V, LLC. Attorney Jodi Ann Avila added to party H.I.G. Sun Partners, LLC(pty:dft), Attorney Jodi Ann Avila added to party Sun Capital Partners V, L.P.(pty:dft), Attorney Jodi Ann Avila added to party Sun Mod Fashions IV, LLC(pty:dft), Attorney Jodi Ann Avila added to party Sun Mod Fashions V, LLC(pty:dft). (Avila, Jodi) (Entered: 03/12/2019)
03/12/2019	<u>12</u>	MOTION to Appear Pro Hac Vice, Consent to Designation, and Request to Electronically Receive Notices of Electronic Filing for Michael A. Duffy. Filing Fee \$ 75.00 Receipt # 113C-11466930 by H.I.G. Sun Partners, LLC, Sun Capital Partners V, L.P., Sun Mod Fashions IV, LLC, Sun Mod Fashions V, LLC. Responses due by 3/26/2019 (Attachments: # <u>1</u> Exhibit Certificate of Good Standing, # <u>2</u> Certification Oursuant to Rule 4(b), # <u>3</u> Text of Proposed Order)(Avila, Jodi) (Entered: 03/12/2019)
03/12/2019	<u>13</u>	MOTION to Appear Pro Hac Vice, Consent to Designation, and Request to Electronically Receive Notices of Electronic Filing for Michael C. McCutcheon. Filing Fee \$ 75.00 Receipt # 113C-11467003 by H.I.G. Sun Partners, LLC, Sun Capital Partners V, L.P., Sun Mod Fashions IV, LLC, Sun Mod Fashions V, LLC. Responses due by 3/26/2019 (Attachments: # <u>1</u> Exhibit Certificate of Good Standing, # <u>2</u> Certification Pursuant to Rule 4(b), # <u>3</u> Text of Proposed Order)(Avila, Jodi) (Entered: 03/12/2019)
03/12/2019	<u>14</u>	STANDING DISCOVERY ORDER FOR MAGISTRATE JUDGE BRUCE REINHART. Signed by Magistrate Judge Bruce E. Reinhart on 3/12/2019. <i>See attached document for full details.</i> (drz) (Entered: 03/12/2019)
03/12/2019	<u>15</u>	PAPERLESS ORDER denying without prejudice to renew <u>12</u> Motion to Appear Pro Hac Vice for Attorney Michael A. Duffy; denying without prejudice to renew <u>13</u> Motion to Appear Pro Hac Vice for Attorney Michael C. McCutcheon. Local counsel did not consent to electronically serve all documents and things that may be served electronically or consent to serving documents in compliance with the CM/ECF Administrative Procedures. Please use the language contained in the sample motion found on the Court's website. Signed by Magistrate Judge Bruce E. Reinhart on 3/12/2019. (hk02) (Entered: 03/12/2019)
03/12/2019	<u>16</u>	MOTION to Appear Pro Hac Vice, Consent to Designation, and Request to Electronically Receive Notices of Electronic Filing for Michael A. Duffy. Pay.gov Agency Tracking ID 113C-11467003. Filing Fee \$ 75.00 by H.I.G. Sun Partners, LLC, Sun Capital Partners V, L.P., Sun Mod Fashions IV, LLC, Sun Mod Fashions V, LLC. Responses due by 3/26/2019 (Attachments: # <u>1</u> Exhibit Certificate of Good Standing, # <u>2</u> Certification Pursuant to Rule 4(b), # <u>3</u> Text of Proposed Order)(Avila, Jodi) (Entered: 03/12/2019)
03/12/2019	<u>17</u>	MOTION to Appear Pro Hac Vice, Consent to Designation, and Request to Electronically Receive Notices of Electronic Filing for Michael C. McCutcheon. Pay.gov Agency Tracking ID 113C-11466930. Filing Fee \$ 75.00 by H.I.G. Sun Partners, LLC, Sun Capital Partners V, L.P., Sun Mod Fashions IV, LLC, Sun Mod Fashions V, LLC. Responses due by 3/26/2019 (Attachments: # <u>1</u> Exhibit Certificate of Good Standing, # <u>2</u> Certification Pursuant to Rule 4(b), # <u>3</u> Text of Proposed

		Order)(Avila, Jodi) (Entered: 03/12/2019)
03/13/2019	<u>18</u>	PAPERLESS ORDER granting <u>16</u> Motion to Appear Pro Hac Vice, Consent to Designation, and Request to Electronically Receive Notices of Electronic Filing for Attorney Michael A. Duffy. Signed by Magistrate Judge Bruce E. Reinhart on 3/13/2019. (hk02) (Entered: 03/13/2019)
03/13/2019	<u>19</u>	PAPERLESS ORDER granting <u>17</u> Motion to Appear Pro Hac Vice, Consent to Designation, and Request to Electronically Receive Notices of Electronic Filing for Attorney Michael C. McCutcheon. Signed by Magistrate Judge Bruce E. Reinhart on 3/13/2019. (hk02) (Entered: 03/13/2019)
03/18/2019	<u>20</u>	MOTION to Change Venue <i>and Incorporated Memorandum of Law in Support</i> by H.I.G. Sun Partners, LLC, Sun Capital Partners V, L.P., Sun Mod Fashions IV, LLC, Sun Mod Fashions V, LLC. Responses due by 4/1/2019 (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B, # <u>3</u> Exhibit C, # <u>4</u> Exhibit D, # <u>5</u> Exhibit E, # <u>6</u> Exhibit F, # <u>7</u> Exhibit G, # <u>8</u> Exhibit H, # <u>9</u> Exhibit I, # <u>10</u> Exhibit J, # <u>11</u> Exhibit K, # <u>12</u> Exhibit L, # <u>13</u> Exhibit M)(Avila, Jodi) (Entered: 03/18/2019)
03/18/2019	<u>21</u>	MOTION to Dismiss <u>1</u> Complaint, by H.I.G. Sun Partners, LLC, Sun Capital Partners V, L.P., Sun Mod Fashions IV, LLC, Sun Mod Fashions V, LLC. Responses due by 4/1/2019 (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B, # <u>3</u> Exhibit C, # <u>4</u> Exhibit D, # <u>5</u> Exhibit E, # <u>6</u> Exhibit F, # <u>7</u> Exhibit G, # <u>8</u> Exhibit H, # <u>9</u> Exhibit I)(Avila, Jodi) (Entered: 03/18/2019)
03/21/2019	<u>22</u>	MOTION to Appear Pro Hac Vice, Consent to Designation, and Request to Electronically Receive Notices of Electronic Filing for Michael J. Yoder. Filing Fee \$ 75.00 Receipt # 113C-11495393 by UMB Bank, N.A.. Responses due by 4/4/2019 (Attachments: # <u>1</u> Text of Proposed Order)(Murena, Kenneth) (Entered: 03/21/2019)
03/21/2019	<u>23</u>	Joint MOTION for Extension of Time to File Responses and Replies for: Defendants' Joint Motion to Transfer Venue and Incorporated Memorandum of Law in Support and Defendants' Joint Rule 12(b)(6) Motion to Dismiss and Incorporated Memorandum of Law in Support re <u>20</u> MOTION to Change Venue <i>and Incorporated Memorandum of Law in Support</i> , <u>21</u> MOTION to Dismiss <u>1</u> Complaint, by UMB Bank, N.A.. Responses due by 4/4/2019 (Attachments: # <u>1</u> Text of Proposed Order)(Murena, Kenneth) (Entered: 03/21/2019)
03/24/2019	<u>24</u>	PAPERLESS ORDER granting <u>22</u> Motion to Appear Pro Hac Vice, Consent to Designation, and Request to Electronically Receive Notices of Electronic Filing for Attorney Michael J. Yoder. Signed by Magistrate Judge Bruce E. Reinhart on 3/25/2019. (hk02) (Entered: 03/24/2019)
03/25/2019	<u>25</u>	PAPERLESS ORDER granting <u>23</u> Motion for Extension of Time. The Plaintiff shall have through and including April 15, 2019 to file its Response to the Defendants' Joint Motion to Transfer Venue and its Response to Defendants' Joint Rule 12(b)(6) Motion to Dismiss (collectively, the "Motions"). The Defendants shall have through and including April 22, 2019, to file their Replies in Support of the Motions. Signed by Judge Robin L. Rosenberg on 3/25/2019. (bkd) (Entered: 03/25/2019)
03/26/2019	<u>26</u>	Joint MOTION for Extension of Time to File Joint Scheduling Report and Proposed Order by UMB Bank, N.A.. Responses due by 4/9/2019 (Attachments: # <u>1</u> Exhibit A- Proposed Order)(Murena, Kenneth) (Entered: 03/26/2019)
04/02/2019	<u>27</u>	PAPERLESS ORDER granting <u>26</u> Motion for Extension of Time. The parties shall file the Joint Scheduling Report and Proposed Order within two weeks after the later entry of the Courts Orders on Defendants' Motion to Change Venue [ECF No. 20] or Defendants' Motion to Dismiss [ECF No. 21]. Signed by Judge Robin L. Rosenberg on 4/2/2019. (bkd) (Entered: 04/02/2019)
04/15/2019	<u>28</u>	RESPONSE in Opposition re <u>20</u> MOTION to Change Venue <i>and Incorporated Memorandum of Law in Support Plaintiff's Opposition to Defendants' Joint Motion to Transfer Venue</i> filed by UMB Bank, N.A.. Replies due by 4/22/2019. (Attachments: # <u>1</u> Affidavit Declaration of Gregory Schwegmann)(Murena, Kenneth) (Entered: 04/15/2019)

04/15/2019	<u>29</u>	RESPONSE in Opposition re <u>21</u> MOTION to Dismiss <u>1</u> Complaint, <i>Plaintiff's Opposition to Joint Rule 12(b)(6) Motion to Dismiss and Memorandum of Law in Support</i> filed by UMB Bank, N.A.. Replies due by 4/22/2019. (Murena, Kenneth) (Entered: 04/15/2019)
04/22/2019	<u>30</u>	REPLY to Response to Motion re <u>21</u> MOTION to Dismiss <u>1</u> Complaint, filed by H.I.G. Sun Partners, LLC, Sun Capital Partners V, L.P., Sun Mod Fashions IV, LLC, Sun Mod Fashions V, LLC. (Attachments: # <u>1</u> Exhibit J)(Avila, Jodi) (Entered: 04/22/2019)
04/22/2019	<u>31</u>	REPLY to Response to Motion re <u>20</u> MOTION to Change Venue <i>and Incorporated Memorandum of Law in Support</i> filed by H.I.G. Sun Partners, LLC, Sun Capital Partners V, L.P., Sun Mod Fashions IV, LLC, Sun Mod Fashions V, LLC. (Attachments: # <u>1</u> Exhibit N, # <u>2</u> Exhibit O, # <u>3</u> Exhibit P, # <u>4</u> Exhibit Q)(Avila, Jodi) (Entered: 04/22/2019)
05/01/2019	<u>32</u>	Plaintiff's MOTION for Leave to File a <i>Sur-Reply Regarding Rule 12(b)(6) Motion to Dismiss</i> by UMB Bank, N.A.. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Text of Proposed Order)(Murena, Kenneth) (Entered: 05/01/2019)
05/14/2019	<u>33</u>	PAPERLESS ORDER denying <u>32</u> Motion for Leave to File. If the Reply contains any improper argument, the Court will not consider such argument. If the Court decides that a sur-reply is necessary, the Court will order a sur-reply. Signed by Judge Robin L. Rosenberg on 5/14/2019. (bkd) (Entered: 05/14/2019)
06/11/2019	<u>34</u>	ORDER Granting <u>20</u> Defendant's Motion to Transfer Venue. Signed by Judge Robin L. Rosenberg on 6/11/2019. <i>See attached document for full details.</i> (drz) (Entered: 06/12/2019)
06/11/2019	<u>I</u>	Case transferred to District of Delaware electronically. (drz) (Entered: 06/12/2019)